

November 29, 2005

Kathryn R. Schmeltzer  
Phone: 202.663.8217  
kathryn.schmeltzer@pillsburylaw.com

By Electronic Filing

Marlene H. Dortch  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

**Re: Television Station Section 339(a)(2)(D)(vii) Waiver Request  
WNYO-DT, Buffalo, NY (FIN: 67784)  
MB DOCKET NO. 05-317**

---

Dear Ms. Dortch:

On behalf of New York Television, Inc., the applicant for Station WNYO-DT, Buffalo, New York ("WNYO"), and pursuant to Section 339 (a)(2)(D) of the Communications Act of 1934 (the "Act"), as amended by the Satellite Home Viewer Extension and Reauthorization Act of 2004 ("SHVERA"),<sup>1</sup> the purpose of this correspondence is to request a six-month waiver of digital testing to prohibit satellite subscribers from receiving or conducting digital signal strength tests to import distant network signals. Good cause exists for the instant waiver request because it meets the waiver criteria under Section 339(a)(2)(D)(viii)(I) of the Act as the licensee is awaiting international approval from Canada for WNYO's proposed digital facilities.

New York Television, Inc. has an application pending before the Commission for DTV Channel 34 at Buffalo, New York. *See* FCC File No. BPCDT-19991101ACJ. On March 14, 2005, the application was amended to specify a different site in order to resolve any potential interference problems with Canadian-licensed stations because Channel 34 at Buffalo, New York is a channel subject to international coordination with Canada. It is the applicant's understanding that the amendment has been forwarded to Industry Canada for review and eventual concurrence. The station has initiated limited DTV service at low power pursuant to special temporary authority and plans to

---

<sup>1</sup> *See* 47 U.S.C. § 339(a)(2)(D) as amended by Section 204 of SHVERA.

November 29, 2005

Page 2

expeditiously commence full-power digital service once Industry Canada has concurred and the station's pending application, as amended, is granted by the FCC.

Accordingly, the delay resulting from awaiting Canadian concurrence for WNYO's proposed full-power digital service warrants a six-month waiver of digital testing to prohibit satellite subscribers from receiving or conducting a digital signal strength test under Section 339 of the Act. As a result, New York Television, Inc. respectfully requests that the Commission grant the requested waiver.

Should there be any questions regarding this matter, please contact the undersigned.

Very truly yours,

/s/

Kathryn R. Schmeltzer

Paul A. Cicelski

*Counsel for New York Television, Inc.*

cc: Nazifa Sawez (by hand delivery)